IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Bail Appl..No. 3845 of 2007(S)

CRIME NO.356/07 OF CHAVAKKAD POLICE STATION.

PETITIONERS

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1. SHINOJ, S/O.RAVINDRAN,
   KANJIRAPARAMBIL HOUSE, POST THIRUVATHRA,
   THRISSUR DISTRICT.

2. MADHU, S/O.DASAN, THERIL HOUSE,
   POST THIRUVATHRA, THRISSUR DISTRICT.

3. PRASAD, S/O.SANKARAN,
   VALIPARAMBIL HOUSE, POST THIRUVATHRA,
   THRISSUR DISTRICT.

4. SHYAMALAN, S/O.VELAYUDHAN,
   VELIPARAMBIL HOUSE, POST THIRUVATHRA,
   THRISSUR DISTRICT.

5. SUMESH S/O.SUBRAMANIAN,
   VALIPARAMBIL HOUSE, POST THIRUVATHRA,
   THRISSUR DISTRICT.

6. PRADEEPLAL,
   S/O.VELAYUDHAN, KANNANGALATH HOUSE,
   POST THIRUVATHRA, THRISSUR DISTRICT.

BY ADV. SRI.P.RAMACHANDRAN

RESPONDENTS:

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1. THE STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. THE S.I.OF POLICE,
CHAVAKKAD POLICE STATION,
CHAVAKKAD, THRISSUR DISTRICT.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3845 OF 2007

Dated this the 29th day of June, 2007

ORDER

The petitioners are accused 1 to 6 and they face allegations in a crime registered, inter alia, under Secs.326 and 308 of the IPC read with Sec.149 of the IPC. The alleged incident took place on 6/6/07 on account of political animosity. An unlawful assembly of persons including the petitioners allegedly attacked the victims with dangerous weapons and caused injuries including grievous injuries. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are innocent. The de facto complainant is a C.P.M. activist and he has wielded his influence with the police to raise allegations under Sec.308 of the IPC against the petitioners. In fact, there are allegations and counter

allegations; but no counter case has been registered so far because of the influence of the de facto complainant in this case. It is, in these circumstances, prayed that the discretion under Sec.438 of the Cr.P.C. may be invoked in favour of the petitioners

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations are serious. Injuries suffered are grievous. In these circumstances, the petitioners may be directed to follow the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail. The weapons have not been recovered. Custodial interrogation of the petitioners is essential for a proper and efficient investigation, submits the learned Public Prosecutor.

4. I shall carefully avoid any detailed discussions on the acceptability of the allegations or the credibility of the data collected so far. Suffice it to say that I am satisfied that this is not a fit case where the petitioners deserve to be armed with an order of anticipatory bail. They must, as contended by the learned Public Prosecutor, resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular

bail in the normal course. Needless to say, if the petitioners surrender before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to dispose of the same on merits, in accordance with law and expeditiously.

5. In the result, this application is dismissed with the above observations.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge